

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Andover Post Office
Andover, Illinois

Docket No. A2012-43

ORDER AFFIRMING DETERMINATION

(Issued February 16, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 28, 2011, Ron Peterson (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Andover, Illinois post office (Andover post office).² The Final Determination to close the Andover post office is affirmed.³

II. PROCEDURAL HISTORY

On November 9, 2011, the Commission established Docket No. A2012-43 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

² Petition for Review received from Ron Peterson regarding the Andover, Illinois post office 61233, October 28, 2011 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 960, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 9, 2011.

On November 15, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

Petitioner filed a participant statement supporting his Petition.⁷ On January 10, 2012, the Public Representative filed a reply brief.⁸

III. BACKGROUND

The Andover post office provides retail postal services and service to 240 post office box customers. Final Determination at 2. No delivery customers are served through this post office. The Andover post office, an EAS-11 level facility, provides retail service from 8:30 a.m. to 11:30 a.m. and 1:00 p.m. to 4:45 p.m., Monday through Friday, and 8:30 a.m. to 9:45 a.m. on Saturday. Lobby access hours are 6:00 a.m. to 8:30 p.m., Monday through Saturday. *Id.*

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 15, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Andover, IL Post Office and Establish Service by Rural Route Service (Final Determination). On November 22, 2011, the Postal Service filed Item No. 49 with an updated index for addition to the Administrative Record, explaining Item No. 49 was not available at the time of filing. A United States Postal Service Notice of Filing Addendum to the Administrative Record was filed on December 22, 2011, adding Item No. 50, a paginated version of Item No. 47, and an updated index to the Administrative Record. The Postal Service explains that Item No. 50 was added to the Administrative Record in an effort to clarify certain details in Item Nos. 33 and 47. Item No. 50 appears to be post-record information. United States Postal Service Notice of Addendum, December 22, 2011. The Commission's responsibility in adjudicating appeals of Postal Service determinations to close or consolidate post offices is limited to "the record before the Postal Service in the making of such determination[s]." 39 U.S.C. § 404(d)(5). The Addendum seeks to add post-record information for the Commission's consideration on appeal. By statute, the Commission is barred from considering any such materials and has not relied on Item No. 50 in deciding this appeal.

⁶ United States Postal Service Comments Regarding Appeal, December 22, 2011 (Postal Service Comments).

⁷ Participant Statement received from Ronald Peterson, November 28, 2011 (Participant Statement).

⁸ Public Representative Reply Comments, January 10, 2012 (PR Reply Comments). On January 10, 2012, the Public Representative also filed a Motion for Acceptance of Late Filing. The Commission accepts this untimely filing.

The postmaster position became vacant on September 30, 2009 when the Andover postmaster retired. An officer-in-charge (OIC) was installed to operate the post office. Retail transactions average 11 transactions daily (10 minutes of retail workload). Post office receipts for the last 3 years were \$43,176 in FY 2008; \$43,431 in FY 2009; and \$39,311 in FY 2010. There is one permit or postage meter customer. *Id.* By closing this post office, the Postal Service anticipates savings of \$22,330 annually. *Id.* at 12.

After the closure, retail services will be provided by the Lynn Center post office located approximately 3 miles away.⁹ *Id.* at 2. Delivery service will be provided to cluster box units (CBUs) by rural carrier through the Lynn Center post office. The Lynn Center post office is an EAS-13 level post office, with retail hours of 7:00 a.m. to 11:00 a.m. and 1:30 p.m. to 5:00 p.m., Monday through Friday, and 7:00 a.m. to 9:00 a.m. on Saturday. Fifty-nine (59) post office boxes are available. *Id.* The Postal Service will continue to use the Andover name and ZIP Code. Postal Service Comments at 11.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Andover post office. He argues the closure will adversely affect the Andover community identity and hurt local businesses. Petition at 1; Participant Statement at 1. Petitioner contends that rural route service to CBUs will not provide regular and effective service to Andover citizens. Petition at 1; Participant Statement at 1-2. Petitioner also asserts that the cost savings from the closing are inaccurate. Participant Statement at 2. He further suggests that the Postal Service should have considered closing the Lynn Center post office instead of the Andover post office. Petition at 1; Participant Statement at 1.

⁹ MapQuest estimates the driving distance between the Andover and Lynn Center post offices to be approximately 3.6 miles (5 minutes driving time).

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Andover post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Andover community; and (3) the economic savings expected to result from discontinuing the Andover post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Andover post office should be affirmed. *Id.* at 14.

The Postal Service explains that its decision to close the Andover post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- the need for operation efficiency;
- minimal impact on the community; and
- expected financial savings.

Id. at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Andover community when the Final Determination is implemented. *Id.* at 5, 14.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, the effect on the Andover community, economic savings, and the effect on postal employees. *Id.* at 14.

Public Representative. The Public Representative is concerned that the closing would adversely affect Andover citizens, the community identity, and local businesses because customer concerns have not been sufficiently addressed. PR Reply

Comments at 2-6. The Public Representative also questions the Postal Service's economic analysis and economic savings estimates. *Id.* at 7-10. Due to these concerns, the Public Representative asks the Commission to remand the Final Determination to the Postal Service for further consideration. *Id.* at 1, 12.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 5, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Andover post office. Final Determination at 2. A total of 240 questionnaires were distributed to customers of the Andover post office. Other questionnaires were made available at the retail counter at the Andover post office. A total of 104 questionnaires were returned. On June 7, 2011, the Postal Service held a community meeting at the Augustana Lutheran Church to address customer concerns. One-hundred-forty-seven (147) customers attended. *Id.*

The Postal Service posted the proposal to close the Andover post office with an invitation for comments at the Andover and Lynn Center post offices from July 7, 2011 through September 7, 2011. *Id.* The Final Determination was posted at the same two post offices from October 17, 2011 through November 18, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Andover, Illinois is an incorporated community located in Henry County, Illinois. Administrative Record, Item No. 16. The community is administered politically by the City of Andover. Police protection is provided by the Henry County Sheriff. Fire protection is provided by the Osco/Andover Fire Department. The community is comprised of farmers, retirees, and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See generally Administrative

Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Andover community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Andover post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 3-4, 10-12.

Petitioner and the Public Representative are concerned about the effect the closure would have on tourists. Participant Statement at 1; PR Reply Comments at 4. The Postal Service responds that people may continue to meet informally, socialize, and share information at other businesses, churches, and residences in Andover, and that stamps and other retail services will be available at the Lynn Center post office located 3 miles away. Postal Service Comments at 10-11.

Petitioner is also concerned that the closure of the post office will adversely affect local businesses. Participant Statement at 2. The Postal Service contends that there is no evidence to support that contention and that the questionnaire responses indicate that customers will continue to use the local businesses even if the Andover post office is closed. Postal Service Comments at 11. Petitioner further questions conflicting information regarding whether the ZIP Code will remain the same. Participant Statement at 1; *see also* PR Reply Comments at 10-11. The Postal Service notes it incorrectly stated in the Proposal and Final Determination that "[t]he proposed change of the ZIP code is necessary due to 911 addressing requirement." Postal Service Comments at 11. It explains that customer addresses will continue to use the community name of Andover and retain the 61233 ZIP Code. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Andover postmaster retired on September 30, 2009 and that an OIC has operated the Andover post office since then. Final Determination at 12. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.* at 12-13.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Andover post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Andover customers. Postal Service Comments at 5. It asserts that customers of the closed Andover post office may obtain retail services at the Lynn Center post office located 3 miles away. Final Determination at 2. Delivery service will be provided by rural carrier to CBUs through the Lynn Center post office. The Andover post office box customers may obtain Post Office Box service at the Lynn Center post office, which has 59 boxes available. *Id.*

Petitioner challenges the Postal Service's finding that the closing would "save time and energy for customers who drive to the post office to pick up mail." Participant Statement at 1. For customers choosing not to travel to the Lynn Center post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 5. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* at 5-6.

Petitioner and the Public Representative express concerns regarding mail security. Participant Statement at 2; PR Reply Comments at 2, 6. The Postal Service responds that there have only been four reports of mail theft and vandalism in the area. Postal Service Comments at 6. It adds that mail will be delivered to CBUs, secure freestanding units individually locked mail compartments installed and maintained by the Postal Service. *Id.*

Petitioner further expresses concern regarding the timing of mail delivery. Participant Statement at 2. The Postal Service argues that in the Final Determination it affirmed that its top priority is to provide mail service in the most efficient manner possible. Postal Service Comments at 6.

Petitioner and the Public Representative argue that the Postal Service has not provided details regarding the CBU locations and that officials have expressed concern for the safety of customers retrieving mail from the CBUs. Participant Statement at 2; PR Reply Comments at 3-4. The Postal Service explains that there are several locations in Andover that would be appropriate for installation of CBUs and that CBUs will be placed in accordance with Postal regulations which take into account the safety of customers. Postal Service Comments at 8.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$22,330. Final Determination at 12. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$5,112), minus the cost of replacement service (\$27,061). *Id.*

Petitioner argues the estimated hours added to the rural route to serve Andover customers is too low. Participant Statement at 2. He also questions the Postal Service's economic savings calculation as it pertains to the cost of CBU's. *Id.* The Postal Service contends it appropriately took into account the correct cost drivers in its cost savings calculations. Postal Service Comments at 12-13.

Petitioner suggests that the Postal Service should have considered the economic savings of closing the Lynn Center post office instead of the Andover post office. Participant Statement at 2; see *a/so* PR Reply Comments at 3, 5-6. The Postal Service responds that, in this case, it determined that it could provide a maximum degree of effective and regular postal services to the Andover community while realizing an estimated cost savings of \$22,300 annually after discontinuance of the Andover post office. *Id.* at 13-14.

The Public Representative challenges the Postal Service's economic analysis and economic savings estimates. She contends that the major costs were inaccurately displayed as "savings" and the meaning of "No Cancellation Clause" was overlooked or misunderstood in the Postal Service's proposed savings calculation. *Id.* She explains that the Postal Service is still required to pay the annual lease amount of \$5,112 through October 31, 2014. PR Reply Comments at 9-10. The Postal Service argues that it determined that rural route service is more cost effective than maintaining the Andover postal facility and that its estimates are supported by Administrative Record evidence, in accordance with the Postal Service's statutory obligation. Postal Service Comments at 14.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Andover post office postmaster retired on September 30, 2009. Final Determination at 2. The post office has since been staffed by an OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 10; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 13. Additionally, the post office's building lease does not expire until October 2014 and does not contain an early termination clause. The Postal Service concluded that the costs associated with rural route delivery service to CBUs would be substantially less than the cost of continuing to lease a building for the Andover post office and filling an EAS-11 postmaster position. Postal Service Comments at 13. Notwithstanding that the Andover post office has been staffed by an OIC for approximately 2 years, even assuming the use of the presumably lower OIC salary and the lack of lease savings in the near term, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Andover post office is affirmed.¹⁰

It is ordered:

The Postal Service's determination to close the Andover, Illinois post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹⁰ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Andover post office has been operated by an officer-in-charge (OIC) since the former postmaster retired on September 30, 2009.¹¹ On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

I agree with the Public Representative and Petitioner, who contend that the economic savings are overestimated and flawed. The Postal Service includes in its calculations the savings from discontinuing the lease, yet the lease does not expire until October 2014 and does not have an early termination clause. In addition, the Administrative Record does not adequately address the reliability of the costs for the installation of cluster box units (CBUs) to be used for replacement service.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the

¹¹ The Final Determination suggests that a non-career postmaster relief currently fills this position.

Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

Further, the Commission has often expressed a concern—and I have consistently expressed the concern—that the maintenance of adequate service requires providing an adequate number of post office boxes in the receiving facility. In this instance, 240 post office box customers in Andover are being displaced (for CBU service), while the administrative receiving post office in Lynn Center has only 59 post office boxes available. A material discrepancy between the number of post office boxes currently provided and the number to be offered as a substitute, even in part, is troubling. Thus, the Administrative Record does not show that the Postal Service has sufficiently considered the issues raised by customers concerning the provision of effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

The Administrative Record includes mention of a number of suggestions by customers that the Postal Service should evaluate the possibility of consolidating the Lynn Center post office into the Andover post office rather than vice-versa. I agree with Petitioner that the Postal Service's choice does not appear strategic, nor does the Administrative Record exhibit evidence that these suggestions were sufficiently considered. The majority of the post office appeal cases before the Commission are characterized by postmaster vacancies. But for the fact that Andover had an OIC, it seems more plausible that the Postal Service would have closed the smaller facility. This suggests that the Postal Service did not adequately consider the needs of the broader community and did not make its determination based on solid, strategic, economic analysis.

Andover customers also told the Postal Service that there would be a disproportionate impact on visitors and tourism from the closure. The Administrative Record includes only a standardized response that did not address or consider the

former concern meaningfully. The Postal Service has not satisfied its obligation to consider the effect of such closing or consolidation on the community served by the post office, as required by 39 U.S.C. § 404(d)(2)(A)(i).

The Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Andover, Illinois and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The current lease does not terminate until October 31, 2014, and does not have a 30-day termination clause. Administrative Record, Item 15 at 1. The Postal Service should note that any savings from the lease will not be realized for over 2 years.

In addition, since the postmaster retired on September 30, 2009, a non-career postmaster relief (PMR) has been in charge of this facility. Postal Service Comments at 2. The Postal Service should take into consideration that a PMR has been in charge of this facility since September 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Andover post office and should be remanded.

Nanci E. Langley